

**F A X C O V E R**

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Date: January 29, 2008 **Number of pages (including cover):** 5**To:** Examiner Anh Ly, U.S. Patent and Trademark Office**Fax No.:** ~~(571) 273-4039~~**Serial No.:** 10/624,304**Title:** **DATA PROCESSING APPARATUS, DATA PROCESSING METHOD,
DATA PROCESSING SYSTEM STORAGE MEDIUM AND PROGRAM****From:** Randy J. Pritzker**Direct dial:** 617.646.8247**Our File #:** S1459.70053US00**ORIGINAL DOCUMENTS WILL NOT BE MAILED.****MESSAGE:** Transmitted herewith is an Interview Agenda.

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DOCKET NO: S1459.70053US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Masafumi Matsuda, et al.
Serial No.: 10/624,304
Confirmation No.: 7805
Filed: July 22, 2003
For: DATA PROCESSING APPARATUS, DATA PROCESSING
METHOD, DATA PROCESSING SYSTEM STORAGE MEDIUM
AND PROGRAM
Examiner: Ly, Ahn
Art Unit: 2162

CERTIFICATE OF FACSIMILE TRANSMISSION 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being transmitted via facsimile to the attention of Examiner Ly, FAX number 571-273-4039, at the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, in accordance with 37 C.F.R. §1.6(d), on:

JANUARY 29, 2008
Date

Delina Andriolo
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Commissioner for Patents
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Interview Agenda

In response to Examiner Ly's request, a proposed agenda for a telephone interview tentatively scheduled for Thursday, January 31, 2008 at 2:00 pm follows.

During the interview, Applicant's representatives would like to discuss the objections to the drawings, and the rejection of independent claims 1, 9, 10 and 18 under 35 U.S.C. §103(a) as purportedly being obvious over U.S. Patent Publication No. 2002/0035692 to Moriai in view of U.S. Patent Publication No. 2002/0082917 to Takano.

I. Objections to the Drawings

In the previous response, which is incorporated herein by reference, Applicant respectfully traversed various objections to the drawings. The Office Action includes a "Response to Arguments" section, but fails to respond to points made in Applicant's

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previous response, as required under M.P.E.P. §707.07(f). As a result, Applicant's representatives would like to discuss the basis for the various objections to the drawings.

II. Claim Rejections Under 35 U.S.C. §103

A. Brief Overview of Embodiments of the Invention

Some embodiments of the invention relate generally to enabling a user of a portable terminal to select his/her favorite tunes, and to transmit a list of recommended tunes to another portable terminal (p. 1, lines 9-10). By way of background, Applicant's specification explains that, while various methods exist for allowing users to listen to their favorite tunes, each approach has drawbacks (p. 1, lines 11-13). For example, a user might listen to a "request" program on the radio, but to ensure they hear their favorite tunes, he/she must go through the trouble of requesting them, might have to listen to an entire broadcast to hear them, and might be forced to endure listening to songs he/she doesn't like before hearing a favorite (p. 2, lines 3-17). Another conventional approach involves a user registering his/her favorite genre of music with a music content provider, so that tunes in preferred genres are presented to the user (p. 2, lines 20-24). This can be a tiresome chore, and once genres are specified, only tunes within those genres are presented, such that a user's choices may be unduly limited (p. 3, lines 1-14).

Accordingly, some embodiments provide for the detection of a reproduction status of various tunes, and using the detected reproduction status to generate a recommended tune list (p. 12, lines 20-23). For example, the reproduction of a given tune for longer than a predetermined time period, or more than a predetermined number of times, may result in the tune being included in a recommended tune list (p. 16, lines 7-15). The recommended tune list may then be transmitted from one portable terminal to another (p. 12, line 23-p. 13, line 3).

B. Independent Claim 1, 9, 10 and 18

Each of independent claims 1, 9, 10 and 18 includes limitations directed to selecting a recommendation content data item from a plurality of content data items

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depending on a reproduction status of the recommendation content data item. The Office Action contends that Moriai satisfies these limitations. Applicants representatives would like to discuss this point, as it is believed that Moriai says nothing at all relating to selecting a recommendation content data item from a plurality of content data items depending on its reproduction status.

Moriai discloses a cellular phone having a clamshell design that is capable of downloading and reproducing content distributed from a distribution server (Abstract). In particular, the cellular phone is equipped with a controller which, if the phone is closed while it is downloading or reproducing content data, causes power to be supplied to the phone so that the download or reproduction process can be carried out to completion (Abstract). The phone is equipped with a detection unit which detects whether the phones casing is open or closed (§[0059]). If the casing is open, the phone is conferred a status which allows the download or reproduction of content data to begin (§[0175]). If the casing is then closed, the phone is conferred as status which allows it to continue the download or reproduction process until all of the content data is processed (§[0180]-[0185]).

The Office Action cites §[0097] and §§[0159]-[0161] of Moriai as purportedly satisfying the limitations directed to selecting a content data item from a plurality of content data items depending on a reproduction status of the content data item. Each of these passages is discussed below.

In §[0097], Moriai discloses that the cellular phone includes a decryption unit capable of receiving encrypted content data, decrypting it, and reproducing decrypted content data (§[0097]). In §[0159], Moriai discloses in greater detail that the cellular phone may reproduce decrypted content data (§[0159]). In §[0160], Moriai states that encrypted content data may be sent to the phone from a distribution server, and that the phone may employ a license key to decrypt and reproduce the content data (§[0160]). In §[0161], Moriai discloses that content data may be transferred from one cellular phone to another, and that when received, the user may download a license key from a distribution server so that the content data may be decrypted (§[0161]).

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These passages are not believed to have anything to do with selecting a content data item from a plurality of content data items depending on a reproduction status of the content data item. A thorough review of Moriai fails to reveal any disclosure or suggestion of subject matter which relates even remotely to the claimed embodiments.

As a result, Applicant's representatives would like to discuss the basis for the rejection of the independent claims under 35 U.S.C. §103 as purportedly being obvious over Moriai in view of Takano.

III. Conclusion

Applicant's representatives thank Examiner Ly in advance for the courtesies extended in reviewing this proposed interview agenda. If the Examiner has any questions in advance of the interview, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: 1-29-08

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Docket No.: \$1459.70053US00

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